

# Bulletin

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NUMBER: 2012-17

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TO: Freddie Mac Servicers

September 10, 2012

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## SUBJECTS

With this *Single-Family Seller/Servicer Guide* (“Guide”) Bulletin, we are announcing the following **Servicing** changes:

- Providing new and revised requirements for Servicer participation in state Housing Finance Agency (“HFA”) modification assistance programs developed in connection with the Treasury’s Innovation Fund for the Hardest Hit Housing Markets or Hardest Hit Fund (“HHF”) initiative
- Granting additional time for allowable delays in completing foreclosures where the delays are due to military indulgence
- Updating Guide Exhibit 57A, *Approved Attorney Fees and Title Expenses*, to reflect the increased limit for attorney fees for foreclosure referrals on Mortgages secured by properties located in Oregon

## SERVICER REQUIREMENTS RELATED TO STATE HOUSING FINANCE AGENCIES’ MODIFICATION ASSISTANCE PROGRAMS

### Effective immediately

Bulletin 2011-24 set forth Freddie Mac’s requirements for Servicer interaction with HFAs related to the HFAs’ modification assistance programs.

With this Bulletin, Freddie Mac is providing new and revised requirements for Servicer participation in HFA modification assistance programs offering HHF funds that will be applied as a partial principal curtailment. Servicers may now participate in HFA programs that permit, after applying the HFA funds to pay arrearages (if applicable) and curtail principal, a Mortgage to be “recast” or re-amortized, with no other changes to the Mortgage terms. These programs assist Borrowers in achieving a more affordable payment and reduce the loan-to-value (LTV) ratio. In addition, we are revising participation requirements for modification assistance programs, which include funds to curtail principal and assist Borrowers in qualifying for a modification of the Mortgage terms other than just the monthly payment amount (i.e., Home Affordable Modification Program (HAMP) modification or a Freddie Mac Standard Modification (“Standard Modification”)).

The requirements provided in this Bulletin revise participation requirements for modification assistance programs previously announced in Bulletin 2011-24. Servicers must continue to comply with all requirements of Guide Section 64.12, *Hardest Hit Fund*, and incorporate the new modification assistance requirements into their processes.

### **Modification assistance programs limited to re-amortization of the Mortgage balance**

If the HFA approves the Borrower for modification assistance funds to curtail principal and there is a re-amortization of the Mortgage balance, the Servicer must apply funds in accordance with the following requirements:

- If the Mortgage is current at the time the HFA funds are received, Servicers must comply with the requirements in Section 59.2, *Partial Prepayments (Curtailments)*, on applying partial prepayments of principal and recalculating the monthly Mortgage payments
- If the Mortgage is delinquent at the time HFA funds are received, the Servicer must apply HFA funds first toward outstanding arrearages and any other past due amounts advanced, including expenses, to bring the Mortgage current, and any remaining funds must be applied to curtail principal as set forth in Section 59.2. The Servicer must recalculate the Borrower's monthly Mortgage payment based on the new Mortgage balance and otherwise comply with all other requirements in Section 59.2.
- If the Mortgage has partial principal forbearance at the time of receipt of the HFA funds, HFA funds must first be applied to outstanding arrearages and any other past due amounts advanced, including expenses, and any remaining funds must be applied in accordance with HFA instructions. If funds will be applied to the interest-bearing balance, Servicers must work with the HFA to ensure that such funds do not pay off the interest-bearing balance, thereby causing the deferred principal balance to become due. The Mortgage payment may be recalculated only to the extent that there are sufficient funds to apply to the interest-bearing balance.

For all partial prepayments of principal where the Mortgage balance is re-amortized, the Servicer must not adjust the interest rate nor extend the maturity date. Further, if there was a prior modification, all other terms and conditions of such prior modification also remain unchanged. In addition, the Servicer must prepare and require execution of a modification agreement reflecting the recalculated monthly Mortgage payment as required in Section 59.2.

A partial prepayment of principal where the monthly Mortgage payment is recalculated based on the new Mortgage balance will not be considered as a "previously modified Mortgage" for purposes of qualifying for a Standard Modification in the future.

### **Modification assistance programs - modification of terms option**

If the HFA approves the Borrower for modification assistance that includes principal curtailment to be used in conjunction with a HAMP modification or Standard Modification, then the Servicer may only apply such funds on Mortgages that are eligible for partial principal forbearance. Once the Borrower successfully completes the Trial Period and prior to the first payment due date of the modified Mortgage, the Servicer must apply HFA funds to eliminate all outstanding arrearages and any other past due amounts advanced, including expenses, and then apply any remaining funds to the principal balance. The Servicer must use the Mortgage balance that remains after application of HFA funds to calculate the final modification terms. If the Borrower does not receive HFA funds prior to the first modified payment due date, the Servicer must complete the modification with partial principal forbearance in accordance with the Guide.

### **Updated forms and exhibits**

We have updated the "HAMP Trial Period Plan Notice" evaluation model clause and the "Standard Modification Trial Period Plan Notice" model clause in Exhibit 93, *Evaluation Model Clauses*, to address circumstances where HFA modification assistance will be received in connection with a HAMP or Standard Modification Trial Period.

The HAMP Agreement Cover Letter (Form 1118) has also been updated and is available at [http://www.freddiemac.com/singlefamily/service/hmp\\_solicitation.html](http://www.freddiemac.com/singlefamily/service/hmp_solicitation.html). The Home Affordable Modification Agreement (Form 3157) must also be modified to include the language provided in the updated version of Exhibit 5, *Authorized Changes to Notices, Riders, Security Instruments and the Uniform Residential Loan Application*.

## **ALLOWABLE DELAYS IN COMPLETING A FORECLOSURE**

### **Effective for foreclosure sales conducted on or after November 1, 2012**

We are providing additional time for allowable delays that are due to military indulgence under the Servicemember's Civil Relief Act or similar State law providing relief to active duty military service members. We are increasing the number of days granted for this allowable delay from a maximum of 365 to 450 days.

Refer to revised Exhibit 83A, *Determining State Foreclosure Time Line Performance Compensatory Fees*, for the manner in which Freddie Mac calculates the additional time granted for this allowable delay.

## **CHANGE IN ATTORNEY FEE LIMIT – OREGON**

### **Effective January 1, 2012**

In Bulletin 2012-16 we announced an update to Freddie Mac's limits for attorney fees for foreclosure referrals on Mortgages secured by properties located in Oregon. The attorney fee limit was increased to \$2,050.00 for foreclosure referrals proceeding judicially on or after January 1, 2012. With this Bulletin we have updated Exhibit 57A to reflect this change.

Servicers are reminded that until further notice, in order to be reimbursed for the increased fee amount, Servicers must submit a request for pre-approval (RPA) via the RPA functionality in the Reimbursement System.

## **REVISIONS TO THE GUIDE**

The revisions included in this Bulletin impact the following:

- Chapter 64
- Exhibits 5, 57A, 83A and 93

## **CONCLUSION**

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call (800) FREDDIE and select "Servicing."

Sincerely,



Tracy Hagen Mooney  
Senior Vice President  
Single-Family Servicing and REO